

**CAPITAL PROJECTS ADVISORY REVIEW BOARD
PROJECT REVIEW COMMITTEE**

**Northwest Carpenters Facility
25120 Pacific Highway South**

Kent, Washington

May 27, 2010

9:00 AM

Minutes

MEMBERS PRESENT

Phil Lovell, Turner Construction NW
Rodger Benson, MA Mortenson Company
Charles Davis, Evergreen Healthcare
Tom Peterson, Hoffman Construction Co. of WA
Eric Smith, University of Washington
Juan Huey-Ray, Office of Minority and Women's
Business Enterprises (OMWBE)
Don Gillmore, Seattle Public Schools
Rick Benner, Western Washington University
Tony Benjamin, Urban League of Metro Seattle
Dan Chandler, Olympic Associates Company
Penny Koal, SPSCC/Department of General
Administration (GA)

Miriam Israel Moses, Rebound A Building Trades
Organization
Tom Balbo, Ferguson Construction, Inc.
Frank Abart, Whatcom County
Linneth Riley-Hall, Sound Transit
Fred Tharp, Washington State Department of
Transportation (WSDOT)
Mike Shinn, Shinn Mechanical
Paul Powell, Jr., CPO Construction
Paul Berry, Harris & Associates
Gary Arndt, Parametrix
Darlene Septelka, Landon Construction Group

STAFF, GUESTS, PRESENTERS

Robyn Hofstad, Department of General Administration
(GA)
Ted Klainer, Harborview Medical Center
Amy Engel, University of Washington
Brad Spencer, University of Washington
Barbara Post, University of Washington

Valerie Gow, Puget Sound Meeting Services
Nancy Deakins, GA
Danelle Bessett, GA
Mike Purdy, Michael E. Purdy Associates
Gay Boyce, King County

Welcome & Introductions

Chair Phil Lovell convened the Capital Projects Advisory Review Board (CPARB) Project Review Committee (PRC) at 9:06 a.m. A meeting quorum was not attained at this time.

Chair Lovell adjusted the agenda to schedule the project application panel review first on the agenda.

Project Application Review for Design-Build HMC Harborview Hall Demo Project

(Panel Chair Paul Berry, Panel Members Frank Abart, Dan Chandler, Darlene Septelka, Fred Tharp, Juan Huey Ray, Don Gillmore, and Chuck Davis.

Panel Chair Paul Berry welcomed everyone and outlined the application review process. Panel members provided self-introductions.

Eric Smith, Capital Projects Officer, University of Washington (UW), introduced Barbara Post, Project Manager. Harborview Medical Center is owned by King County and operated by UW. As part of the operating responsibility UW is responsible for capital projects at the hospital. Ms. Post is the onsite project manager for all work undertaken at Harborview and mobilizes larger teams dependent on the magnitude of the project. The primary clients are Elise Chayet, Associate Administrator, and Ted Klainer, Harborview Medical Center Project Manager, who is the primary contact. Mr. Smith is sharing responsibility of the overall directorship of the project with Brad Spencer along with Amy Engel, Associate Director.

Harborview Hall is an old building located in the middle of campus. The demolition of Harborview Hall is part of the overall bond program approved by voters in the early 2000's. Much of the work has been completed and included the construction of the main new building, a new hospital wing, along with major renovations in the exiting Emergency Department and a new medical office tower completed last year. The next phase of the bond program is the demolition of the hall. The delay was due to a landmark review of the building. The decision was recently released that the building can be demolished. The immediate replacement, until future buildout of the campus occurs, is open space as a park or plaza that hasn't been designed at this point. That part entails the second element to remove the building readying the site in time for awarding a Design-Bid-Build project for the park/plaza component.

The area is dense with a tremendous volume of pedestrian and bus traffic creating additional conditions and complicating the demolition.

Ms. Post described the location of the building, which is a 10-story building built in 1931. The building contains 96,000 square feet and has reached its life span. The primary element of the project involving the design and demolition pertains to the adjacent oxygen storage facility, which represents a high risk. Additionally, the utility corridor under the building carries much of the piping as well as steam piping and other services to the primary facility. That corridor must remain intact. There is also a pedestrian corridor from the Research and Training Building to the main campus. Those two elements along with the oxygen tanks are very important. The intent is not to give the contractor the definition in terms of the means and methods of maintaining them.

Dan Chandler arrived at 9:16 a.m. A meeting quorum was attained.

Mr. Smith reported UW is a certified public agency for DB, which is why the presentation is not focusing on the qualifications of the team or UW. The purpose of the presentation is because the statute requires those projects less than \$10 million to request PRC approval of the application on a project approval basis. The statute requires that the project meets one of the three criteria in RCW 39.10.300. The application includes two criteria the team believes meet the intent of the statute involving the specialized nature of the work and expertise of a specialist required to help develop the methods in moving forward.

Linneth Riley-Hall arrived at 9:22 a.m.

Since the building will be empty, there is no design for a new building. Rather than needing a good design, the team needs a good and sound technical solution for demolition. It's not a design build, but a technical solution to demolish the building. In accordance with RCW 39.10.280, the project provides substantial fiscal benefit over the alternative of the standard practice of DBB. The team believes the project meets that intent and rather than dictating means and methods for protecting the oxygen and the utilities that must be maintained for operations and life safety, it's important to let the experts help with the solution. In a DBB scenario, the effort involves a design process that results in the development of plans and specifications suitable for bidding in a public environment. That's a significant effort not really needed for the design builder for the demolition

contractor in this case. And, it imposes one solution on all the parties. The likely scenario that should be avoided is taking a low bid with the bidder advocating for a different idea and discarding the design creating nothing but problems and issues. That's the justification for using the DB method.

Mr. Smith noted one date in the schedule was modified to reflect adding another month for awarding the contract. He reviewed the project design and construction schedule. The law allows two ways for selection. The team is using the expedited option and doesn't believe a longer review involving design review is necessary as the goal is to receive a solid technical proposal addressing all the concerns while ensuring life safety and patient care issues are managed. The intent is developing a short list of contractors meeting the qualifications in the Request for Qualifications (RFQ) and then through a two-step process, issue a Request for Proposal (RFP). RFQ finalists will develop a technical solution addressing all the project requirements. That will likely include at least one proprietary interview with each of the bidders to flush out the proposal and ensure the bidder understands the proposal. Following that, finalists who are qualified can apply to the publicly opened bid, with the bid awarded to the lowest bidder. The intent is completing the process to award a contract in February 2011 with demolition beginning in July 2011.

The RCW also includes a number of criteria that must be included in the selection. The number one priority is safety and health of the patients and the surrounding community. The number of firms that will compete will likely be limited so the opportunity to include women and minority business enterprises is limited, but to the extent that it could occur, the team will encourage participation as well as ensure it aligns with UW's priorities. Other criteria include project management capability and experience. The technical solution is an important element of the project. The sense of urgency pertains to the bond approved by the voters for upgrades to the seismic safety of the campus.

Panel Chair Berry invited questions from panel members.

Darlene Septelka asked about the level of design within the RFP and the decision on the honorarium, which is required by law. Mr. Smith replied that the requirement for an honorarium stipulates that it must be sufficient to encourage good competition and to recognize level of effort. At this point, the amount of the honorarium hasn't been established as many individuals will be involved including the possibility of the King County Council. King County has a major stake in the project. Mr. Smith introduced Gay Boyce from King County. King County is a stakeholder in the process as the county owns the building. The King County Council is involved in appropriating the funds for the project. The owner team in consultation with all parties will develop an honorarium that meets the parameters. The level of effort on design is not needed for this project. The need is for a technical solution that is demonstrably sound. The questions will pertain to how the contractor intends to protect the oxygen farm, maintain life safety on the campus, and not disrupt any of the utilities located under the building. The team will define for the design builders what the resulting area will look like that will be the starting point for the follow-on plaza project.

Ms. Septelka asked how hazardous material risk will be addressed between the design builder and UW. Ms. Post said some preliminary surveys have been completed but will need to be updated. There is asbestos and lead paint and other materials present. Those elements will also be part of the contract. Mr. Smith added that UW will assume risk of what's contained in the study and what's provided to the contractor in terms of accuracy. If it's not, it's UW's risk. The contractor will be responsible for proper removal and disposal of materials.

Don Gillmore referred to the schedule and asked whether all landmark avenues for potential appeals have been exhausted. Ted Klainer said he believes there is a five-year window to remove the building. If the building is not removed within five years, another landmark review could occur.

Fred Tharp asked about anticipated involvement of the team with respect to approvals of interim milestones throughout the project. Mr. Smith said at this point specific milestones haven't been identified, but there will be an oversight role to ensure the contractor submits the appropriate plans. Infection control plans are extremely important in this environment, which will be required and subject to review by the team. Traffic flow and other requirements will be necessary before actual demolition begins. Mr. Tharp cited the protection of the utilities and asked whether the team will review and approve the contractor's proposal for how that protection will occur. Mr. Smith said the team will review protections in place to ensure it meets the plan. There will be an oversight role.

Tony Benjamin arrived at 9:30 a.m.

Panel Chair Berry asked whether a process will be prepared by the owner on the ongoing interrelationship and collaboration necessary with residents and agencies involving traffic control, safety, and pedestrian flow. Mr. Smith advised that the team has robust and mature infrastructure in place. There is a strong community outreach program with strong connections to local building owners of apartment complexes and a number of facilities related to Harborview that are not owned by the hospital but have connections to the hospital. There is substantial residential housing to the south of the hospital that's an important resource as well. All that information will be provided to the bidders as they prepare their proposals.

The bond program is also unique in that it includes a bond oversight committee overseeing the three-party agreement that was established prior to the inception of the bond program involving King County, Harborview Medical Center, and the University of Washington. Each entity is represented on the committee and the team will report to the committee on a monthly basis on the status of the project. Mr. Smith confirmed that all information will be defined in the initial information so that bidders can build their proposal on the existing structures in place.

Dan Chandler asked whether the marketplace has been polled on the anticipated response to the project proposal. Ms. Post advised that there have been discussions with representatives from Associated General Contractors (AGC). There is interest in having participation by general contractors or demolition contractors or a combination of both. Mr. Smith added that he's spoken to several major general contractors in the area and there has been some interest expressed in the project particularly given the current market. It will depend on the bidder who can develop a cost-effective team. For this particular project, a design team is not the primary necessity. A general contractor might have sufficient engineering and drafting expertise to demonstrate that they have the technical solution.

Mr. Chandler asked about the bidder's process for communicating the technical proposal. Mr. Smith said the process is not limited in how the bidder demonstrates their particular proposal. After demonstration of the proposal and if it meets the specifications, the bidder will make the short list to submit a bid.

Mr. Chandler asked about the kind of firms the team is soliciting to assist in developing the RFP. Mr. Smith said the desired assistance will include having the necessary expertise as well as the time to meet the schedule. The team has identified the project and what's necessary but because of the timing additional resources will be needed to meet the schedule. Mr. Chandler asked if the work is quantifiable to justify lump sum bidding. Mr. Smith affirmed that he believes it is. The team has discussed what the "price" means in the statute. It's likely the team can wrap it up as a lump sum contract. There may be an opportunity to test the definition of "price." Ms. Septelka remarked that since the project is so unique and the team may be considering proposals by demolition companies, it's possible they may not have previous DB experience. She asked how the team will consider that aspect. Mr. Smith said previous DB experience will not be as important as technical expertise and demolition of the building in a way that protects the safety of the community and hospital patients. That will be

important. The requirements will enable an open competition by not including those kinds of restrictions on the bidding community.

Mr. Gillmore asked whether the DB team will be responsible for obtaining all the permits through the DB contract or whether the owner performs that function under this scenario. Ms. Post said there are a number of approaches. But it's likely that it will be an integrated team because of the number of issues to include hazmat considerations.

Mr. Smith said much of the permitting will also be underway prior to contracting with the DB team. Some of the work will involve working with the regulatory agencies and obtaining some answers so that it can be included in the RFP. For instance, there could be restrictions on street use involving the removal of hazmat materials and other construction materials. Much of the work will involve the engagement of the owner team upfront. Ms. Post will lead the effort and it will also entail taking advantage of the networks already in place.

Juan Huey Ray commented on the opportunities involving truckers because of the demolition activities. Mr. Smith agreed it presents an opportunity. It will entail a demolition contract with some ancillary opportunities for design assistance as well as a number of other opportunities involving the removal of material and street coordination. Mr. Huey Ray emphasized the importance of incorporating that information within the RFP.

Miriam Israel Moses arrived at 9:41 a.m.

Mr. Gillmore asked whether the project will require Leadership in Energy and Environmental Design (LEED) certification. Mr. Smith said it likely will not be a LEED project. A medical facility is exempt. If there is the opportunity to obtain LEED certification, it's likely the owner wouldn't undertake that expense. It will be important to be environmentally sensitive in the demolition of the building.

Ms. Post added that there have been discussions about recycling opportunities for materials. Mr. Smith said it's another example of why DB is the preferred method because it affords the opportunity to take advantage of relationships that demolition contractors already have in recycling and in the resale of materials.

There were no public comments on the proposal.

Panel Chair Berry invited panel comments.

Mr. Gillmore said it appears the project is a good selection for the DB process. There appears to be advantages in terms of recycling and permitting.

Ms. Septelka said the project is unique and fits the requirements for DB. It's also beneficial for some of the agencies to consider utilizing this particular delivery method.

Mr. Tharp expressed support of the project. If the PRC had four other competing projects that were under \$10 million, he likely would have voted against this project because the design element is minimus. It's really not a DB project because the owner is utilizing the ability to choose various technical proposals as the basis of selection. However, it is the right solution and he will support voting for the project.

Mr. Chandler commented positively on the presentation and that the delivery method is appropriate for the project.

Chuck Davis agreed the project makes sense for the delivery method.

Panel Chair Berry outlined the responsibility of the committee in evaluating the projects. The first is determining the agency is capable, which appears to be no question in this case. The second is determining whether the project is appropriate for the delivery method. As the PRC established the provisions for a DB project, this type of project was not envisioned. It's a creative use of the DB delivery method. It's also an appropriate use. It's about technical solutions and how to get there in the best possible way. It is a project that will benefit the public by using the DB delivery method.

The entire panel by consensus approved the Harborview Medical Center Harborview Hall Demo project for Design-Build.

The meeting was recessed from 9:49 a.m. to 9:57 a.m. for a break.

Welcome and Introductions

Chair Lovell reported a meeting quorum has been attained. Everyone present provided self-introductions. The agenda was revised to include a discussion on the recertification of public agencies for GC/CM and DB and a discussion on de-certification of a public agency.

Chair Lovell advised that a number of terms are expiring on July 1. The CPARB met on May 13 and received a number of applications for different positions. Letters will be sent notifying members of their reappointment. There were several changes to the membership. Paul Berry will be leaving the PRC effective June 30. Chair Lovell thanked and recognized Mr. Berry for his input and efforts on the committee as well as his involvement in the formation of the PRC.

Mr. Berry said for whatever reason, the CPARB elected not to reappoint him and he's disappointed by the action. He and several other members developed the concept for the committee as a function for reauthorization of alternative contracting methods. The intent was to provide the opportunity for public agencies to use alternative contracting methods. The committee has completed very good work and as a result, public works projects in the state have been better than ever and opportunities now exist for successful projects that otherwise wouldn't have occurred. The committee has also steered some agencies away from processes that likely would have been disastrous. He thanked members for their support and urged their continued involvement.

Paul Berry left the meeting.

Approval of Previous Meeting Minutes

Chair Lovell reported that a number of meeting minutes from the panels have not been approved. The CPARB discussed the procedure for approving the minutes and recommended the chair of each panel should review the minutes to ensure the minutes reflect the discussions and actions of the panel. He reviewed minutes requiring approval:

- January 28, 2010, Panel for Snohomish Housing Authority - Penny Koal
- January 28, 2010, Port of Seattle Escalator Replacement – Eric Smith
- March 25, 2010, Island Hospital – Tom Balbo
- March 25, 2010, Mason County Hospital – Tom Peterson
- May 27, 2010, UW/Harborview Medical Center Harborview Hall – Fred Tharp

Legislative Update

Nancy Deakins provided an update on the results of the 2010 legislative session:

- **SHB 2617, eliminating certain boards.** Representative Hunt added the CPARB to a list of boards that should not be eliminated. The bill included a clause that for boards not eliminated reimbursement for meeting expenses is eliminated. The bill directs that boards consider alternative ways to conduct meetings, such as video conferencing or other means. Many of the members' companies are covering the expense for continued meetings. Ms. Deakins said she's been involved in several video conferences that worked fairly well for some small groups around the state. She asked for input on the option of conducting video conferencing. Additionally, the Office of Financial Management is directing that boards cannot meet at private locations because of the expense. She will submit a request for the PRC to continue meeting at a private location at no expense.

Chair Lovell commented that he's unaware whether the facility is equipped to handle video conferencing. It's also been his experience that technology issues surrounding video conferencing tend to occur.

Miriam Moses commented on the lack of ability to interact between the presenter and the committee. She said she would never present a project proposal by video conference. It's important to have direct communication and feedback between the presenter and the committee. This forum would not be conducive for video conferencing.

Rodger Benson agreed that it's likely there would be significant resistance by project applicants. Ms. Deakins offered that if video conferencing is considered, it would be important to establish a meeting location in the Seattle, Olympia, or eastern Washington areas so that people can attend and participate.

Ms. Moses added that it would also be possible to hold a meeting in Wenatchee, which is located at a midway point.

Chair Lovell said the option of utilizing the system of small panels to address individual projects was developed because a panel could be assembled that was appropriate for the project as well as the mobility of sending fewer people. The idea was that the panels could be held in all areas of the state including Spokane. Chair Lovell affirmed that the general consensus of the committee appears to be against using video conferencing at this time as there's no expense to the committee to conduct meetings in the current location.

- **SB 6401** – legislation was passed concerning an alternative process for selecting an electrical contractor or a mechanical contractor, or both, for GC/CM projects.

Mr. Benson asked whether the legislation requires electrical or mechanical contractors to submit bids so that owners are assured of competitive pricing. Ms. Deakins said the only thing addressed in the legislation is the audit requirement of the costs. Each GC/CM has the ability to negotiate with mechanical and electrical subcontractors similar to how the owner negotiates with the GC/CM. The audit will ensure good value is received.

Chair Lovell said a subcontractor's MACC doesn't have the same restrictions as the GC/CM has in that the MACC is established and they do not have to negotiate the MACC. They are not required to bid either the self-performed work as a sub or bid any portion of it. Tom Peterson disagreed and indicated that if the sub is not self-performing, they have to bid in the public bid process. Mr. Smith added that to the extent of self-performing, that aspect is subject to audit.

Ms. Septelka asked whether the element of self-performing is treated as cost reimbursable. Discussion followed on the question with several members clarifying the process.

Mr. Benson commented that when the owner is bidding general conditions in the GC/CM, it would be additional administrative expense above and beyond the lump sum contract with a mechanical or electrical subcontractor because of the extra work involved in approval of the invoices for instance. It appears that the owner should convey whether it's their intent to bring the mechanical or electrical contractors on board early on a MACC basis. Ms. Septelka said it is much more burdensome on the owner because the contracting of the GC/CM has become so complex that it's a challenge when developing the RFP and how they craft the contract into the proposal.

Penny Koal said the PRC will also need to ask owners how they will proceed and whether they're considering this complex issue.

Mr. Chandler said in many cases, it's not known at the time of RFP whether to go mechanical or electrical guaranteed price maximum (GMP) or not. The owner will look for information from the contractor. How it applies is the question.

Mr. Smith said UW is currently doing it. There is a request for final proposals for Phase 3 University of Washington Bothell campus. The RFP acknowledges that the opportunity exists. UW is anticipating that once the GC/CM is hired, both the GC/CM and UW will figure out together how it will work and how to comply with the law. If there are expenses that are above and beyond what has been communicated in the matrix of summary of cost allocation, it will either be reimbursable or negotiated into the lump sum. UW prefers to work jointly with the GC/CM to determine the outcome.

Chair Lovell said his impression of the provision is that it's not determined until after the GC/CM is on board with the owner and that it's not necessarily at the time of the GC/CM RFP or RFQ.

Mr. Chandler suggested it's not incumbent upon applicants to address the issue during the PRC's review of the proposal. Chair Lovell said it's a provision within the statute that deals with the application of the process once the GC/CM has been hired.

Ms. Koal questioned whether it is incumbent upon the PRC to ensure the owner has the sophistication and knowledge to address the issue. Ms. Septelka advised that the review of the management team and the owner's understanding of subcontracting nuances of the GC/CM will be important to ask of the applicant.

Mr. Peterson added that part of the committee's purview is ensuring the owner or its consultants have the necessary GC/CM experience. It's not necessary to delve down to that degree of questioning. Chair Lovell agreed, but added that the provision will be covered in subsequent GC/CM training sessions. Ms. Deakins said the PRC could pose the question to the owner to ensure they are aware of the statute and that it might be something the GC/CM might want to pursue.

Chair Lovell said at the moment it's difficult to envision a project or situation that would involve the new provision, and that if an owner is aware of the provision, it is possible they may address it during the application presentation.

Ms. Koal asked about the status of legislation affecting housing authorities in terms of exemptions for appearing before the PRC. Ms. Deakins said there may be a need to ask for an opinion on the legislation or requesting housing authorities provide clarity on the exemption.

Ms. Moses advised that housing authorities have basically considered themselves to be federal agencies. Normally under state standards, the more stringent law applies to public works projects. For housing authorities, that has never typically occurred. In most cases, housing authorities follow federal policy instead of state law. In those cases of joint federal/state standards, the standards are supposed to apply to housing authorities. However, something usually occurs pertaining to federal requirements that prevent that from occurring. The legislation will likely not change current practice to any large degree.

Mike Purdy commented that there are two issues. One pertains to prevailing wages. When there is any HUD funding, it preempts state prevailing wages. The second issue is alternative public works and housing authorities' position that federal regulations permit alternative public works, which likely means the PRC won't receive applications from housing authorities.

Chair Lovell said over a year ago he provided training assistance to the King County Housing Authority for utilizing GC/CM. The process was interrupted by the formation of the PRC and through that process it was generally determined that if there is any federal funding involved, the federal statute takes precedence and furthermore they are allowed to pursue alternative public works to complete the projects.

Gary Arndt arrived at 10:40 a.m.

Ms. Moses said she believes the law will be tested in terms of prevailing wage.

Ms. Deakins advised that additional clarification will be pursued on the law and whether the PRC needs to consider the statute.

Mr. Lovell commented that King County Housing Authority was having some difficulty in maintaining construction management services throughout the construction phase, which was one of the specific areas they were seeking additional training on.

Mr. Benson questioned the intent of SSB 6355. Mr. Smith said the bill provides the ability for medical centers that have special requirements to develop a roster of qualified contractors that can compete for the work while providing assurances to the owner that contractors bidding on those types of projects have met a specific standard in terms of their ability to operate in that type of environment.

Recertification of Public Agencies

Chair Lovell reported when the PRC was formed and began its work in 2007, the committee discussed certification of public agencies for GC/CM or DB to enable agencies, after certification, to proceed with projects without presenting individual projects before the PRC. The certification was effective for three years with the option of one three-year renewal. During the recent CPARB meeting, recertification was addressed in terms of oversight and whether a separate application should be developed. Based on the discussion, he worked with staff to develop an application for recertification by public agencies. The application is a condensed version of the original application, but the intent is to determine from the agency what may have changed in its operations, procedures, staff resources, or the ability to undertake alternative public works projects. Additionally, the application seeks information on the agency's ability to fulfill the requirements of data reporting to CPARB on all projects over \$5 million. He asked for input from members.

Mr. Benson said the application doesn't address success of project completions. Recertification as previously addressed by the PRC, should be dependent on the success the agency has had in managing GC/CM or DB projects. An agency may indicate that all five project completions were not problematic when in reality three

were over budget and two were not completed on schedule. It could prove that the public body wasn't qualified. The application should include something, such as a third party assessment or analysis of data submitted to provide a report card to the PRC on how well the agency completed the projects. Regardless of the qualifications of staff and whether the agency selected the right delivery model, the success of the project should determine recertification. Ms. Moses agreed as the committee has reviewed projects that appeared okay but after additional questioning and review it became evident that there were problems, such as excessive change orders or the project coming in over budget. Additionally, the question of whether the alternative process was the best way to complete the project should be considered. Maybe the lack of success was because the mode of delivery was not the right choice. That would be helpful information for the PRC as well.

Ms. Riley-Hall agreed it's important to know that information but is unsure whether that should be an element when considering whether the public agency should be recertified. The original criteria should be used for recertification as well. If criteria are not included within the RCW, although it's good information to know, perhaps it shouldn't be required.

Mr. Benson said he believes criteria are included within the statute. The PRC discussed past performance on alternative delivery projects with applicants if the PRC learns of issues. For instance, when Seattle Public Schools presented its project proposal, the PRC questioned Mr. Gillmore on the previous GC/CM projects and ultimately the application wasn't approved. The reality is that members consider whether the owner is qualified to manage an alternative delivery project. Whatever data the committee may need to make that determination should be available to the committee. If there is project experience that demonstrates success in managing projects that information is more valuable than a resume included in the original packet for certification.

Ms. Moses commented that a prior applicant provided a list of GC/CM projects, but none of them were public works projects. The PRC was concerned that the agency had not completed a project under the laws governing public construction projects. Mr. Benson agreed there have been many cases where applicants provided information on private GC/CM projects to satisfy the requirement. The purpose of the PRC is to ascertain whether the owner has the ability to successfully utilize alternative delivery methods.

Rick Benner said basically the question is the difference between a three-year renewal and the sixth year certification. He questioned what the PRC will consider differently at the three-year renewal than what will be considered when the agency applies for certification in the sixth year. Mr. Benson said it will involve evaluating whether new data are available and if something has changed since they first applied. The renewal process is about examining whether any changes have occurred since the original certification. At six years, the agency must apply for certification using the longer application.

Ms. Septelka said she would want information on what's changed in three years and what projects have been completed in the last three years.

Chair Lovell referred members to item 2 on the form where it asks the applicant to, "Include and describe any such process changes since your original certification (and reasoning for same) to your determination process based upon your experience to date in utilizing the delivery method." That section could be expanded to ask what went right or wrong in the selection process. The next page of the form under (b) states "Include for such projects as to the status of these projects (planned, underway, or completed, dates and projects/determined construction cost). That section could be supplemented to ask the applicant to provide some project history. Additionally in the following sections it asks the applicant to provide a narrative discussion of the following information for each project:

1. Appropriateness of the alternative contracting method used for such project(s).

2. Lessons learned from your experience.

Members offered various opinions on what the form should include. Mr. Chandler suggested the Chair should include some of the recommendations to address the committee's concerns.

Mr. Smith said that as an interested party preparing to submit for recertification, he assumed UW would be completing the original application again. He advocated for the committee to arrive at some agreement as UW's application is due on July 1.

Several members stressed the importance of the form including questions on what major changes have occurred in staffing and in other resources.

Dan Chandler moved, seconded by Linneth Riley-Hall, to grant the Chair authority to modify the recertification application as necessary based on input by the committee.

Ms. Septelka said she would like a question included as to whether an agency selected a method and completed the project or whether they cancelled the method and elected another alternative and why.

Mr. Gillmore questioned whether the committee is creating a higher standard for the next three years than for the first three years. Mr. Benson replied that the public agencies need to live up to a higher standard. The first round involved a review of resumes. More information available to the committee to make an appropriate decision is important.

The motion carried.

Staff was asked to provide the minutes and the original application to the committee when a recertification request is considered.

Ms. Deakins said after the application form is completed, staff will send notices to all public bodies scheduled for recertification. The statute requires public bodies to apply three months prior to the expiration of certification.

Members discussed an application form for DB.

Darlene Septelka moved, seconded by Miriam Moses, to direct the Chair to modify the form as appropriate to use for DB recertification.

Ms. Riley-Hall advised that the City of Seattle is aware of the deadline for recertification and is using the current form for reapplication. She will advise the City of the updated form.

The motion carried.

Decertification of Public Agencies

Chair Lovell reported at the last CPARB meeting, Assistant Attorney General (AAG) Linda Sullivan-Colglazier provided findings on her research regarding the matter of what could constitute the need to decertify a public agency for the use of alternative public works under RCW 39.10. Ms. Sullivan-Colglazier reviewed case law and public contracting and presented three criteria for grounds for decertification of public agencies. A memorandum will be provided to the CPARB on the criteria. The CPARB took no formal action to pursue a

policy but believes it's appropriate for the PRC to have preliminary discussion regarding the issue. The three criteria include:

1. The public body no longer meets the criteria for certification, such as loss of experience, unsatisfactory audit findings, or performance of alternative works contracting is no longer in the public interest.
2. The agency is not using an open and fair process.
3. Violation of the principles of competitive bidding and favoritism that could affect public interest.

There is the possibility of the CPARB establishing a task force to work on the issue. The CPARB wants the PRC involved in the decertification process.

Ms. Deakins reported the statute stipulates that the PRC may revoke the certification of a public body when its use of the procedures no longer serves the public interest. Because the action is severe, the Board believes that it should make the determination and is considering the potential of proposing a change in legislation. Until then, the Board is looking at providing guidance to the committee.

Mr. Smith cited the statute authorizing the committee to revoke certification.

Chair Lovell added that should a public agency not receive certification or become decertified, it does not preclude the agency from submitting a project application to the PRC for approval.

Tom Balbo questioned the process for documenting the information necessary to make a determination a public agency will be decertified. Such a decision should not be based on heresy or a lack of information. He asked about the identity of the body that can initiate a decertification request.

Ms. Deakins provided additional information on what prompted the Board's discussion on the issue and the AAG's briefing. In December 2009, the City of Tacoma advertised for a DB parking garage project and included within the RFP the requirement to contribute \$1 million to a private element of the project. It appeared to be a "pay to play" requirement. The Board learned of the requirement and invited the City of Tacoma to present information, which occurred at the Board's February meeting. The Board asked questions and convened an executive session with the AAG to discuss the issue. The Board agreed to receive a briefing because the statute doesn't define what "serving the public interest" is. There are several questionable projects concerning the methods public bodies are using. The Board needs to be able to take swift action if inappropriate conduct is occurring. The Board discussed the option of a graduated discipline action, which Ms. Sullivan-Colglazier cautioned against.

Mr. Gillmore said if a public agency were to be decertified prior to the three year period, there should be a performance audit to determine the facts. Otherwise, it's subject to different sorts of speculation and inaccuracies. Mr. Tharp replied that the PRC has the same burden in that aspect. The PRC provided certification based on its confidence level. It's the committee's responsibility to remove certification if any change in confidence in the public agency pertaining to its performance based on public interest occurs.

Chair Lovell asked whether that would include a graduated penalization process by enabling the agency to still apply to the PRC. Mr. Davis suggested that if it's not in the public interest someone from the public would complain and then it would be up to the PRC to evaluate the merits of whether the action is against public interest. He agreed with Mr. Tharp that the PRC makes the original determination that's not necessarily based on hard facts but on information provided by the body and intuition of the members. If there is a complaint against a public body, the PRC can make the same type of determination.

Mr. Smith said he's concerned with the discussion as there are other possibilities that the committee could be used to revoke certification because someone is not happy with a decision. There are other avenues for contractors such as protesting the action. It's a slippery slope to open up the issue. It should be somehow vetted before it reaches the committee, such a legitimate complaint referred to the PRC by the AAG.

Chair Lovell acknowledged that the concerns involve how to obtain information that the charge is legitimate and that there is something occurring that could bring into question the conduct of the agency. Mr. Smith questioned the process for having the complaint reach the PRC for a public hearing. He asked whether anybody can request it and if the PRC is obligated to conduct a public hearing to consider the complaint. That's a dangerous position to put the PRC in. Some criteria need to be developed to determine what legitimate complaint can be considered by the PRC. Ms. Moses agreed it is a slippery slope but that it shouldn't be that complicated. Whenever there is a decertification, a public hearing is required. In any public hearing, the committee will receive information. In this case, there might not be any public testimony. The primary criterion that appears to be problematic is what is or is not in the public interest. Some examples could be an increase in project interest because of inefficiencies or mistakes. That wouldn't be in the public interest. She suggested having the AAG provide examples of what might not be in the public interest. It would be inappropriate for the committee to send an issue to the AAG to evaluate. The AAG doesn't have the combined experience represented on the PRC. She said she would oppose that particular process, but guidance could be obtained from the AG.

Mr. Benner inquired about the effective date of decertification. Chair Lovell said if an agency is certified and is in the process of completing a project and receives decertification, the assumption is the agency would complete the project under the scenario of original approval. However, any new alternative public works projects would need to be presented to the PRC for consideration.

Frank Abart asked for clarification of the request to the PRC from the Board. Chair Lovell said the Board has asked the AAG to provide the briefing memo and the Board will consider the issue and possibility develop some criteria for what constitutes decertification and the process. The Board will follow up with the PRC at that point. Ms. Deakins added that the Board recognized that the committee will need procedures to implement such action. The task force is going to develop the criteria for revoking certification as well as any procedures, as well as recommending legislative changes to allocate the responsibility to the Board.

Members discussed the responsibilities of the two bodies. Essentially, the PRC is the enforcement arm. Several members asked why the issue was addressed to the Board. Ms. Deakins said all appeals are considered by the Board.

Chair Lovell said it appears the committee understands that the logic and the criteria for potential decertification of a public agency needs to be clear and that the committee needs a process established for such action.

Vice Chair Election

Chair Lovell reported the committee operates on a fiscal year basis with officer terms expiring June 30. As provided in the bylaws, the request is to elect a new Vice Chair. Ms. Koal will assume the Chair position beginning July 1. The candidate for Vice Chair should represent private industry to balance representation. With the exception of Mr. Berry, all members with terms expiring on June 30 were reappointed by the Board.

Chair Lovell opened nominations for Vice Chair.

Chair Lovell nominated Tom Peterson. Mr. Smith seconded the nomination.

Ms. Koal nominated Darlene Septelka. Mr. Powell seconded the nomination.

Ms. Moses nominated Rodger Benson. Mr. Smith seconded the nomination.

There were no further nominations.

Chair Lovell closed the nominations.

Members elected Tom Peterson as Vice Chair by ballot.

Application Review Post Mortem

Chair Lovell said he mentioned to Mr. Smith that the project team should pay particular attention in terms of insurance for the project. Based on experience in the demolition of the Kingdome, the matters involving complex demolition from an insurance standpoint can be “frightful.”

Ms. Koal said it’s interesting that the project applications reviewed for DB to date are very different than conventional projects. Mr. Tharp added that the projects are about obtaining the best value and opportunities.

Mr. Benson said because of the bid scenario at the end of the process, in some aspect that removes it from the best value equitation because the goal of the bidders is not to provide the best possible approach for the project but sufficient in terms of making the short list at the least cost. It may result in not receiving the best solution because there is no value on the quality of the solution in the final decision.

Mr. Tharp commented that WSDOT is pursuing \$3 billion in DB projects.

Ms. Linneth said some projects underway at Sound Transit are unique and different and may come through the PRC for approval.

Ms. Deakins acknowledged Ms. Linneth’s change in employment from the City of Seattle to Sound Transit. The Board discussed the change and approved Ms. Linneth representing cities. Additionally, the Board is seeking a replacement for the county’s representative. Christy Trautman has stepped down.

Ms. Septelka reported on a county working on a moderate risk waste facility as a DB project. However, the majority of the building is a prefab facility. The county followed the statute for the RFQ, RFP, and the selection process. The project is a \$1.3 million facility. Staff did have some difficulty in convincing the board to pay an honorarium.

Mr. Peterson recognized Chair Lovell for his leadership.

Set Next Meeting Agenda

The University of Washington will submit its application for recertification of GC/CM. The next meeting is July 22 and will include a full committee meeting. Approval of a recertification application requires a super majority of the meeting quorum.

Adjournment

Chair Lovell adjourned the meeting at 11:54 p.m.